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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,481	12/13/2001	Martin Wildeman	TIE-003PA	6635

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/015,481	Applicant(s) WILDEMAN, MARTIN	
	Examiner C. Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 9-15, 23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz (3,717,150).

Schwartz discloses method of forming a textile structure for containing liquids, as shown in figure 1. The method comprises providing a fluid retaining core layer 10 comprising a blend of hydrophobic and hydrophilic fibers in a nonwoven batting, as described in column 3, lines 9-20. A bonding yarn 12 is applied in a repeating stitch bond pattern, as shown in figures 1 and 2, and described in column 3, lines 52-61. The stitch bonded composite 11 is then mechanically shrunk, as described in column 4, lines 28-32. The stitch bonded composite 11 is shrunk by a dryer, as described in column 4, lines 28-41, which, since it causes the compaction of the composite, functions as a piece of textile compaction equipment.

With respect to claim 2, the bonding yarns 12 are spun, as disclosed in column 5, line 11.

With respect to claim 9, the bonding yarns 12 are polyester, as disclosed in column 3, lines 38, and inherently have a texture.

Art Unit: 3761

With respect to claims 10-12, the bonding yarns 12 are applied at a stitch density of about 8 stitches per inch, as disclosed in column 4, lines 1-2.

With respect to claim 13, the bonding yarns 12 form a user contact surface, as shown in figure 1.

With respect to claims 14 and 15, the stitch bonded composite 11 is shortened by about 15%, or not less than 5%, as disclosed in column 4, lines 32-33.

With respect to claims 23 and 25, Schwartz discloses an incontinence pad and diaper comprising the textile structure, as shown in figure 8.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-8, 16-22, 24, and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (3,717,150) as applied to claim 1 above, and further in view of Heiman (5,759,662).

Schwartz discloses all aspects of the claimed invention with the exception of the bonding yarn comprising cotton. Heiman teaches the use of either 100% polyester yarn or a yarn comprising a blend of polyester and cotton, as described in column 3, lines 35-38, as equivalent for use as bonding yarn in a fluid containment textile structure.

Therefore, because polyester/cotton blend yarn and polyester yarn were art-recognized

Art Unit: 3761

equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a polyester/cotton blend yarn.

With respect to claims 6 and 19, Heiman remains silent as to the proportions of polyester and cotton in the bonding yarn. It would have been obvious to one of ordinary skill in the art at the time of invention to make the yarn 65% polyester and 35% cotton, since it has been held that where the general conditions (i.e. a polyester/cotton blend) are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art.

With respect to claims 7-8 and 20, Heiman remains silent as to the cotton count of the bonding yarn. It would have been obvious to one of ordinary skill in the art at the time of invention to make the yarn with a cotton count of about 10, since it has been held that where the general conditions (i.e. a polyester/cotton blend) are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art.

Response to Arguments

Applicant's arguments filed 6 July 2005 have been fully considered but they are not persuasive.

In response to the applicant's argument that Schwartz fails to disclose mechanical shrinkage by introduction of mechanical compression, as defined by the instant specification, it is noted that while the claims are read in light of the specification, the claims must be given their broadest reasonable interpretation (see MPEP 2111). Further, it is noted that the instant specification describes on page 11 preferred practices for mechanically shrinking the composite, and does not explicitly define the

Art Unit: 3761

term "mechanically shrinking" to be by mechanical compression only. Therefore, the arguments are not persuasive and the rejection in view of Schwartz stands.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WA
cla

September 12, 2005

TATYANA ZALUKAEVA
PRIMARY EXAMINER

